

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

BLUE CITI, LLC,

Plaintiff,

v.

5BARZ INTERNATIONAL, INC.,

Defendant.

**Civil Action No.:
1:16-cv-09027-VEC**

**NOTICE OF CROSS MOTION
TO VACATE JUDGMENT
AND DISMISS COMPLAINT**

To: Law Office of Jeffrey Fleischmann PC
Jeffrey Fleischmann, Esq.
150 Broadway, Suite 900
New York, NY 10038
646.657.9623

PLEASE TAKE NOTICE that the undersigned attorney for Defendant 5BARZ International, Inc. hereby moves before the United States District Court, Southern District of New York, for an Order to Vacate the Judgment against defendant 5BARZ International, Inc. pursuant to F.R.C.P. 60(b)(4) as said judgment is void because the underlying note imposes a rate of interest exceeding 25% per annum, violating New York Penal Law §190.40, and that the note is void *ab initio*, as a matter of law, pursuant to New York G.O.L §5-511, and to Dismiss

Plaintiffs' complaint pursuant to Fed. Rule Civ. Pro, 12(c) with prejudice.

PLEASE TAKE FURTHER NOTICE that Defendant 5BARZ International Inc. will rely on the Brief and Declaration filed in support of this motion identified in the Certificate of Service.

A proposed form of Order is attached.

By: /S/ Mark R. Basile
Mark R. Basile, Esq. (MB2201)
THE BASILE LAW FIRM P.C.
Attorney for Defendant LD Holdings Inc.
68 S. Service Rd., Ste. 100
Melville, New York, 11747
516.455.1500
(f) 631.498.0478
mark@thebasilelawfirm.com